IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5522 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VRAJRAYJI VALLABHIYA VAISHNAV HAVELI AND ASARWA BETHAK TRUST

Versus

STATE OF GUJARAT

Appearance:

MR AR THACKER for Petitioner

Mr.L.R. Pujari, AGP for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 2, 3

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 19/09/2000

ORAL JUDGEMENT

Learned advocate Mr. Thakkar is appearing for the petitioner and Learned AGP Mr. Pujari is appearing for the respondent authorities. In this petition, rule

has been issued by this court and ad interim relief has been granted on 31st July, 1990. Thereafter, on 14th Sept. 1990, it was directed by this court that till further orders, it would be open to the competent authority under the Urban Land Ceiling Act to take possession of the property in accordance with law subject to the rights which are reserved for the trust under the lease deed. However, pending hearing and final disposal of this petition, the respondents were directed not to dispose of the property in any manner which would adversely affect the rights of the trust under the lease deed dated 26th February, 1959.

In this petition, the petitioner has challenged the order dated 23.9.1988 passed by the second respondent at Annexure "C" as well as the order dated 31.5.1990 passed by the Urban Land Tribunal in appeal no. 498 of 1988 annexure "D".

Today, when the matter has been taken up for hearing, learned AGP Mr. Pujari appearing for the respondent authorities has filed the affidavit made by the Additional Collector (Coordinate) Urban Land Ceiling, Ahmedabad dated 18th September, 2000,copy whereof has been served to the learned advocate for the petitioner. In the said affidavit, the deponent has submitted that Goswamiji Vrajrayji Ranchhodlalji Maharaj has submitted Form No.1 under section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 which form was processed and by order dated 23.9.1988, it was held that out of total holding of 9504 sq. mtrs. of land, the respondent no.3 is entitled to hold 1000 sq. mtrs.of land and remaining 8504 sq. mtrs.of land of s.n.584 of village Asarva was declared as excess under the provisions of the Act. The deponent has further stated that the respondent No. 3 challenged the said order before the tribunal by appeal no.498 of 1988 and the said appeal was rejected by the tribunal vide order dated 31.5.1990. However, the said order was not challenged by the third respondent. However, the present petitioner has filed this petition challenging the order dated 23.9.1988 of the competent authority as well as the order dated 31.5.1990 passed by the tribunal stating therein that the property in question is held and owned by the said trust. This Court has granted ad interim stay of further proceedings by order dated 31.7.1990. The deponent has stated that thereafter, the Court has permitted the authority to proceed further in the matter. Pursuant thereto, letters patent appeal no. 53 of 1991 was filed by the trust against the said order and by order dated 20.1.1992, the Division Bench of this COurt has fixed the matter for

urgent final hearing. Therefore, the authority could proceed in the matter only upto the stage of sec.10(3) of the Act and because of the pending litigation, the possession of the land could not be taken over by the Government. Considering the aforesaid affidavit in reply filed by the respondent authority and also considering the provisions of the Repeal Act, 1999, the authority could proceed in the matter only upto the stage of sec.10(3) and could not take possession of the land in question because of pending litigation.

The Urban Land (Ceiling and Regulation) Act, 1976 has been repealed by the Urban Land (Ceiling and Regulation) Repeal Act, 1999 as adopted by the Gujarat State Legislative Assembly as per the resolution dated 30.3.1999 passed under Art. 252 (2) of the Constitution. In view of the provisions of the aforesaid Repeal Act, 1999, the orders impugned herein do not survive and all the proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 in respect of the land in question as well as the present petition have abated.

Therefore, this petition is disposed of as having abated. Rule is discharged. Ad interim relief granted earlier shall stand vacated with no order as to costs.

19.9.2000. (H.K. Rathod,J.)
Vyas